

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 2237 - HB 2355

March 14, 2022

SUMMARY OF BILL AS AMENDED (013360, 015610): Revises and establishes multiple provisions governing bail and bail bonding procedures. Requires the Department of Commerce and Insurance (DCI) to implement a registration program for the practice of bail bonding, which transfers this responsibility from local courts. Adds numerous provisions governing the conduct of professional bondsmen that, if violated, could result in a bondsman losing the ability to lawfully practice. Authorizes bondsmen to appeal disciplinary actions with a contested case hearing under the Uniform Administrative Procedures Act (UAPA). Requires all professional bondsmen to complete 20 hours of initial training. Requires any person acting as a bounty hunter to obtain 8 hours of continuing education during each 12-month period. Increases, from 8 to 12 hours, the amount of continuing education that professional bondsmen are required to obtain annually. Requires professional bondsmen to submit a report of their assets and liabilities to DCI rather than the court and quarterly rather than bi-annually. Requires any person seeking to become a professional bondsman to, in addition to other requirements, submit to a comprehensive criminal history background check to be conducted by the Tennessee Bureau of Investigation (TBI) and the Federal Bureau of Investigation (FBI).

Requires the regulation of bail bonding to be audited by the Comptroller of the Treasury.

FISCAL IMPACT OF BILL AS AMENDED:

**Increase State Revenue – Exceeds \$52,700/FY22-23/TBI
\$5,300/FY23-24 and Subsequent Years/TBI**

**Increase State Expenditures – Exceeds \$32,900/FY22-23/TBI
\$3,300/FY23-24 and Subsequent Years/TBI**

**\$311,800/FY22-23/Division of Regulatory Boards
\$288,800/FY23-24 and Subsequent Years/
Division of Regulatory Boards**

Other Fiscal Impact - Pursuant to Tenn. Code Ann. § 4-29-121, all regulatory boards are required to be self-sufficient over any two-year period. The Division of Regulatory Boards experienced a surplus of \$2,246,372 in FY19-20, a surplus of \$894,057 in FY20-21, and had a cumulative reserve balance of \$29,274,846 on June 30, 2021. The Division may impose registration and renewal fees to fully or partially offset the additional costs of administering the registration program for the practice of bail bonding.

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Assumptions for the bill as amended:

- Bondsmen register in and submit required semiannual operating reports to the local county clerk of each county in which the bondsman is furnishing bail or bonds and securing costs and fines.
- Transferring the registration of bondsmen to the DCI will not cause a significant decrease in workload or staffing requirements for any individual local court.
- Pursuant to Tenn. Code Ann. § 40-11-302, professional bondsmen are exempt from licensure as an insurance provider under the DCI.
- It is unknown precisely how many persons in Tennessee would qualify as “professional bondsmen” as defined in the proposed legislation, which includes any person, firm, partnership, or corporation. Thus, it is unknown the precise number of individuals that would be subject to the various licensing and other requirements
- Based on information provided by DCI, this number is assumed to exceed 1,500 individuals.
- The DCI will require two additional Regulatory Board Administrative Assistant 2s, one additional Regulatory Board Investigator, and one additional Associate Counsel to carry out the requirements of this legislation.
- The increase in state expenditures associated with the positions is estimated to be \$311,834 (\$211,800 salaries + \$62,884 benefits + \$5,700 office setup + \$22,100 vehicle down payment and lease + \$9,350 admin expenses) in FY22-23.
- The increase in state expenditures associated with the positions is estimated to be \$288,834 (\$211,800 salaries + \$62,884 benefits + \$4,800 vehicle lease + \$9,350 admin expenses) in FY23-24 and subsequent years.
- There will be fiscal impact to the TBI related to criminal history background checks. The TBI receives a fee of \$35.15 for each background check conducted. Of that, \$13.25 is paid to the FBI, and \$8.65 is paid to the fingerprint vendor.
- The expenditure to the TBI for each background check conducted is thus \$21.90 (\$13.25 + \$8.65).
- The estimated number of individuals that would need a background check to receive licensure exceeds 1,500.
- Because bondsmen will need this check to continue to lawfully practice it is assumed that all of these background checks will occur in FY22-23.
- Therefore, the increase in state revenue to the TBI related to background checks for professional bondsmen is estimated to exceed \$52,725 (1,500 x \$35.15) in FY22-23.
- The increase in state expenditures to the TBI related to background checks is estimated to exceed \$32,850 (1,500 x \$21.90) in FY22-23.
- It is assumed that an estimated 10 percent, or 150 (1,500 x 10%) of background checks will be required every year beginning in FY23-24 to accommodate new professionals seeking licensure.
- Therefore, a recurring increase in state revenue to the TBI estimated to be \$5,273 (150 x \$35.15) in FY23-24 and subsequent years.
- A recurring increase in state expenditures to the TBI estimated to be \$3,285 (150 x \$21.90) in FY23-24 and subsequent years.

- Pursuant to Tenn. Code Ann. § 4-29-121, all regulatory boards are required to be self-supporting over any two-year period. This new regulatory program will be placed under the Division of Regulatory Boards; therefore, this program will be required to collect, at minimum, sufficient revenue to offset expenditures incurred by administering the program.
- Based on information provided by DCI, the department can assess licensing and application fees sufficient to cover the costs of implementing and administering the new regulatory program.
- Authorizing bondsman to appeal disciplinary actions through a contested case hearing under the UAPA is not estimated to cause a significant number of hearings for the DCI to see any significant change in revenue or expenditures.
- Continuing education is obtained through a third-party association or private contractor; therefore, increasing the number of hours required annually will not increase revenue to the DCI.
- The Comptroller of the Treasury can include the regulation of bail bonding with the audit of the DCI within existing resources.
- Based on information provided by the Administrative Office of the Courts and the Court Clerks Association, any fiscal impact to state or local courts is estimated to be not significant.
- Pursuant to Tenn. Code Ann. § 4-29-121, all regulatory boards are required to be self-sufficient over any two-year period. The Division of Regulatory Boards experienced a surplus of \$2,246,372 in FY19-20, a surplus of \$894,057 in FY20-21, and had a cumulative reserve balance of \$29,274,846 on June 30, 2021.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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